Morning Oregonian.

VOL XIX -NO. 5581 PORTLAND, OREGON TUESDAY FEBRUARY 11, 1879. PRICE TEN CENTS

GENERAL NEWS.

(BY TELEGRAPH TO THE OREGONIAN.)

The American Print Works

PHILADELPHIA Feb 10—There has been no failure of the American print works but owing to the pressure from outside parties it was deemed advisable to ask for an extension for two years The amount of indebtedness is about $1 500 000 Quite a large amount is owed to various mills in this city for cloth Two of the banks are also interested The corporation has not done justice to the region He deprecates class distinctions and says that the attempt to build an aristocracy on the ground of slave holding ancestry will result in ridiculous failure He advises to let up on carpet baggers Not one of the men who built San Francisco and other great western cities were natives of the place They were substantially carpet baggers

Indian Prisoners.

OMAHA, Neb Feb 10—Cheyenne prisoners seven bucks six squaws and six children passed through Omaha this afternoon in charge of Lieut Foote and ten soldiers for Leavenworth Kansas, where they are to be turned over to the civil authorities

WASHINGTON CITY.

The Jam of Important Business now Before Congress.

WASHINGTON, Feb. 8—The army appropriation being now out of the way, the legislative executive and judicial appropriation bills will be called up for action in the house to-morrow afternoon or Tuesday for-noon and may be expected to occupy the greater part of the week except the night sessions which has been assigned for various purposes including Wednesday evening for bills from the public lands committee On of these is the bill referring to the McGarahan-New Idria controversy to the court of claims. On the senate calendar of unfinished business are Edmunds joint resolution proposing a constitutional amendment on the subject of war claims and a bill to provide accommodation for the national library McCreery has the floor for the delivery of a speech to-morrow on the Indian transfer question, at the conclusion of which one of the above indicated measures will be taken up and on Wednesday Sargent will endeavor in accordance with his notice last Friday, to call up the Chinese bill for debate and action

Five-Cent Coins for the Pacific Coast

A money article in the San Francisco *Bulletin* of the 31st ultimo calls attention to the scarcity of half dimes and asks the Californian congressional delegation to have a law passed authorizing its coinage The smuteness of this coin caused it to be discontinued years ago, and it is practically out of circulation in the east the five-cent nickel having taken its place and answering all its purposes Senator Sargent noticing the complaint of this scarcity in San Francisco asked the secretary of the treasury yesterday if the government would send out a supply of nickel five cent pieces in case the local demand should be made for them Secretary Sherman in reply makes the following official statement The U S assistant treasurer at San Francisco has $2 000 in five-cent nickel coins About eight years ago $5 000 in bronze coins were sent to the California sub-treasury for the Bank of California which took them in exchange for notes, but being unable to get rid of them returned them to the assistant treasurer under the act authorizing their redemption and the sub-treasury now has of them in all $2 700 Additional amounts will be sent if necessary from Philadelphia where they are on hand to the amount of $800 000 The assistant treasurer at San Francisco will pay out any of these coins for greenbacks and the government will redeem them with greenbacks in sums of $20 or upwards so that their redundancy can be readily guarded against Sargent says it must be accepted as a fact that congress will not pass a bill to coin five-cent pieces for local convenience and that San Francisco must conform to the existing currency

Alarmingly Ill

Senator Johnston, of Virginia is alarmingly ill His family have been telegraphed for

Appropriations for California.

WASHINGTON, Feb 10—The sub committee charged with the preparation of the annual appropriation bill have finally consented to insert an item of $60 000 for the Oakland harbor coupled with a proviso that this amount and also the $80 000 conditionally granted last year shall revert to the federal treasury on the 30th of June unless a clear title be vested in the United States to all the property required for the purposes of the project This will make an amount of about $5 60 000 prospectively available for continuation of the work of improvement but tied up to await the action of the Oakland water front company Other California items as prepared by the sub committee are $8 000 for the improvement of the Sacramento river and $ 000 for Wilmington harbor The bill has been substantially adopted by the full committee and will be reported to the house in a few days and though its subject matter is not strictly of a character to be considered until the bill reaches the senate where the California delegation expect to secure an increase of the amount it is believed will be passed with the departmental items remaining as they are

Personal

HON DAVID DAVIS is said to be a candidate for the democratic nomination for governor of Illinois

Cause and Effect

From the Cincinnati Enquirer

The Democratic majority in the House of Representatives has been engaged for the past week in the work of reducing the appropriations for the support of the army to the lowest possible figure consistent with the efficiency of the service The Democratic majority in the Senate has been engaged for the past week in the work of increasing the appropriations for the support of the army to the highest possible figure consistent with the efficiency of the service

ROBESON'S WRONG DOING

Specific Charges by a Congressional Committee of Mal-Administration of Naval Affairs

[BY TELEGRAPH TO THE MORNING OREGONIAN]

WASHINGTON Feb 10—The committee to whom has been referred the report of the house committee relative to the administration of the navy department under Secretary Robeson charges that during the past six years of Robeson's administration there have been appointed from the navy register the names of 9 vessels of which five were not at sea and 140 were sold and the proceeds paid into the treasury Three were sold and the proceeds paid over to contractors and 9 were destroyed by order of Robeson and the material cut up If this destroyed property which cost the government $10 000 000 is credited at only $500 000 we have an expenditure during the eight years of over $9 500 000 The property sold and disposed of would certainly yield a revenue of $1 000 000 to prevent private individuals but in fact the government received for it less than $ 000 000 Now subtracting from the annual appropriation for the navy the sums applied to its maintenance it is found that over $61 000 000 were applied to the construction equipment and armament This makes nearly $60 000 000 applied to construction a sum which if applied to building war vessels would have given the United States 70 new vessels like the *Trenton* one of the best in the navy, a number sufficient to have made the navy at once respectable and useful Inquiry is needed whether the laws enacted for the government of the naval service and protection of the government interests have been observed The committee say that they are constrained by the facts their sense of duty to the house and country to answer that these laws have not been observed or obeyed but on the contrary have been disregarded and violated A number of instances are declared to be monstrous of lawlessness which are disregard of the lowest bidder, and that of equipping proposals to be accompanied by a written guarantee and sureties which the report states has been wholly ignored in over 500 cases After referring to violation of laws in contracts for rebuilding ships and prohibiting any department from exceeding appropriations, the report says that up to the close of Robeson's administration, the low prices having their effect on general business did not affect the navy department Contracts were made at prices which had prevailed in years before The report says that the greatest loss was perhaps in purchasing live oak timber It appears from the report of Lanthall and Isherwood that large quantities of inferior oak have been purchased and allowed

Hot from Exposure.

The committee especially refer to the report of Chief Engineer King in relation to the disposition of large quantities of material at several of the navy yards, resulting in large losses to the government The committee ask for the indebtedness of the navy at the time the investigation was made and find the unlawful sale and disposition of large amounts of property belonging to the government, and unlawful disposition of large sums of public money appropriated for the naval service Geo M Robeson, late secretary of the navy W W Wood, late chief of the bureau of steam engineering Isaiah Hanson, chief of the bureau of construction and repairs and the chiefs of the bureaus of provisions and clothing from 1872 to March 1877 are chiefly responsible As to the late chief of the bureau of provisions and clothing Paymaster Watmarugh, it is said that being acting chief alone during the greater part of this time he felt bound without contrary instructions from the head of the department to carry out the policy of his said chief This being so would and greatly to relieve him The committee recommended that the conduct of Chief Engineers Stewart Fathian and Henderson and Paymaster Russell be inquired into and the report concludes by declaring that it is the duty of the house to mark its condemnation of the illegal practices of these former officers of the navy department and to invite the attention of the executive department upon which rests the responsibility of further action in the premises

AN HONORABLE SHOWING

Letter from President Green of the W U Company to the Potter Committee Showing the Conduct of the Company Relating to the Ciphers

[BY TELEGRAPH TO THE MORNING OREGONIAN]

WASHINGTON Feb 10—In relation to the committee to receive the private dispatches

NEW YORK Feb 10—In response to a request from Chairman Potter of the committee to investigate the Western Union Telegraph company's connection with the Tilden conspiracy to secure the presidency by fraud, President Green of the company has addressed a letter to the committee in which he says that the company has no private dispatches in its possession relating to the matter under investigation, and that the company has not in any way assisted in deciphering any of the dispatches Mr Green says that the company has not in any way assisted in deciphering any of the dispatches Mr Green says that the company has not in any way assisted in deciphering any of the dispatches Mr Green says

The Daily Oregonian.

TUESDAY MORNING FEB 17 1879

ADMIRABLE FLEXIBILITY

For several years the Democratic party in many states has been somewhat distracted by certain financial follies which have found advocates within its ranks And in general Democrats of the east and west have stood hopelessly apart on the quest ons of resumption paper currency payment of the nation al debt and modes of taxation In national conventions of the party eastern ideas have usually triumphed On these occasions the party could not afford to surrender itself to the guidance of noisy lunatics and so except in 1868 in its national conventions it escaped what is known as the greenback folly But when it came to state platforms the Democratic party adopted in all the states west of Pennsylvania the platform of an irredeemable currency and only last year was demanding that the resumption act be repealed Some have been looking forward to 1880 in the expectation that the party would split on this question and there are Republicans who anticipate an easy victory over opponents thus divided But they are mistaken in the supposition that such division is likely to occur By 1880 the currency question will assume a new phase in the Democratic mind It is probable indeed it may be regarded as certain that the Democratic party will then come out on the hardest kind of a hard money platform and declare that it has been right there all the time Even in Ohio and Indiana it will go straight back from the fiat doctrine and point with pride to its ancient record as a party in favor of hard money As for the south it has no opinions on finance as a prominent southerner at Washington recently said which it will not surrender for the sake of success

We are opposed he continued to national banks and desire to re establish state banks Admitting that this platform would lose us New York and New Jersey we could afford that if we could carry Ohio Indiana and Illinois The western states are as much opposed to the national banking system as we of the south Our people in Ohio will make an anti national bank platform in their state convention this year If we win there the presidential election next year is as good as ours, for we shall put the same ideas into the national platform If we lose we have a year ahead to perfect new arrangements If our anti bank crusade fails in the west we shall become the hardest of hard money men form alliances with the eastern democracy and make a strike for New York and New Jersey As for the south it is solid and will remain so under all conditions It cannot be doubted that in this outline the course of the Democratic party for the next contest is very truthfully sketched. In order to satisfy the worshippers of the paper money idea the fight this year will be made against the national banks. It will take the form of a demand that the national bank circulation shall be withdrawn, and an equal amount of treasury notes issued to take its place. Then would follow the restoration of the old system of state banks. But on the full discussion that would follow the announcement of this policy the party would certainly be defeated, and the result would prepare the way for adoption of the opposite course by the party for the greater contest of the next year A party is fortunate, indeed, when it has resources so varied, and can so easily accommodate itself to any doctrine which offers most assurance of success. In all this there is a flexibility that is admirable and who ever suggests that there is in it a want of consistency may be answered that there is in it the highest consistency with the main purpose in view which is simply to achieve success regardless of means and methods, and still less of promises and professions

INDIAN RESERVATIONS.

"Either the Indian must assimilate with our civilization or be exterminated." This is the dictum of a prominent eastern journal In few words it expresses the whole case But it is only recently that this fact seems to have become well understood. Government, however, appears to comprehend it, hence the exertions it is making to bring the Indians under the rule of law and of labor which is higher law There is no longer any unoccupied country into which the Indian can be pushed to be out of the way of the whites. Henceforward his destiny must be worked out in connection with the white race. The food which nature formerly provided and on which he always subsisted is gone He must now get his food by his own labor In other words he must cease to be an Indian He can no longer be allowed to range at will over the country Even the reservation system, as now organized should be broken up as soon as possible, and the lands given to the Indians to hold in severalty and till on their own account. Continuation of the reservation system will only perpetuate their dependence Like all other persons, they should be shown as quickly as possible that they must take care of themselves and that it is not the business or duty of government to take care of them Under the reservation system they will be kept always in a state of childhood and pupilage, and therefore will not develop that robust independence which is necessary to progress Hence though the reservation be a necessity as a beginning, it should be abandoned as soon as possible The recent report of the joint committee of the two branches of congress on this subject in which this view is substantially urged embodies more good suggestions than we have ever before seen from any official source In accord with the report of the committee provision ought to be made that small tribes and parts of tribes unless they take their lands in severalty, shall be removed to large reservations This would do away with many annoyances arising from numerous reservations held by small bands and used for no purpose whatever Such a policy could be adopted in these cases as would greatly simplify the whole problem The Indian thus established on lands of his own will soon lose his destructive Indian character a result which is absolutely necessary to any settlement of the long pending Indian question

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Unless congress shall pass a special appropriation to meet it the new pension act will be inoperative It is hinted now that southern members are averse to such appropriation They joined in passing the bill to help the northern Democratic allies among the soldier element but hoped and believed the president would veto it But he did not and now since the south is not likely to get its bill to pension Mexican soldiers or to restore to the pension rolls those who were stricken off on account of disloyalty during the rebellion and since hardly a dollar of the claims that are to be disbursed under the act just passed will go to the south there is this reason on the part of southern members to vote the appropriation They state freely that [illegible] representation of this [illegible] would enable them to help northern Democrats at the next election and that the bill would never become a law because it would be amended in the senate and be allowed to die while the two houses were fighting over it But the scheme went sadly awry and a lot of politicians were hoist with their own petard

The Virginia legislature has refused by a very decided majority to repeal the whipping post law taking the ground that a great saving of expense has accrued and there has been a notable decrease of petty thefts A similar law is just what is wanted in Oregon It will cure a class of offenders who commit petty crimes in order that they may be kept at the public expense Imprisonment they don't care for they will go into larger circles on one poor meal a day rather than work and can be brought to time only by the lash It will be asserted perhaps that Virginia in enforcing this penalty is retrograding toward barbarism But she is showing more sense and less squeamishness than other states

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John Russell Young who travels with Gen Grant for the New York *Herald* is the man who writes all those remarkable letters concerning what Grant sees where he goes and whom he meets and these details he interlards copiously with sayings put into the mouth of his hero on all kinds of topics All the letters are read to General Grant and subjected to revision before they see the light They are then introduced to the public through the columns of the *Herald* like certain bills and petitions in congress by request

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It is claimed by Grover or in behalf of Grover that he knew nothing whatever about the Chadwick Cann Walker transaction He was president of the board but Chadwick and Cann were the parties to the job which was done without his knowledge And Chadwick in turn says he had no hand in Grover's West Portland Homestead transaction Grover did it all himself It is evident that board was managed in a peculiar way Each member took his turn at it when he had a speculation on hand

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Sunday sleepers got a very neat thrust from Prof Swing an independent preacher of Chicago a couple of Sundays ago "It will never be the duty of a public speaker said the professor to keep everybody awake He need keep awake only those whose wakefulness will ever be of any value to themselves or mankind There spoke the voice of retaliation! And properly too But some slept even when Paul preached

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It is a serious mistake says the Philadelphia *Record* in an article on our school system, to frame the entire scheme of instruction on the erroneous hypothesis that all children are candidates for academic honors when the facts show that not more than twelve pupils in a thousand ever reach the high school

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Appropriate metaphor is one of the graces of style When the New York *World* describes Montgomery Blair as "that battered fifth wheel of a dozen disused political coaches," the expression is better than a whole descriptive essay

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POSSIBILITIES

McKenzie Bridge Ogn Jan 30 1879

To the Editor of the Oregonian

Your observations on potatoes touch a responsive chord. Every sentence is golden and applicable to other productions and to other localities than Portland Independence, the surest product of any soil is easy of cultivation could men only see its worth The inalienable rights of man was but a slender shoot when transported in the *Mayflower* and transplanted on American soil by the men and women who sought liberty of conscience as the thing of greatest value It took a new lease of life when the colonies declared themselves free and independent states, and its vitality was scarcely checked by the shock which opposed the realization of Jefferson's ideal, the Declaration of Independence Specie resumption has furnished the last argument necessary in proof that our civil war was a success Even Mormonism despite its debasing central idea had enough of the spice of independence to make its Utah colony one of the most successful in history Now if the time has come for men to declare their independence of towns and maintain it —to exchange the concrete for the abstract—the great northwest is ready for it.

In your article you strike the key to the solution of the labor question Labor is only respectable in the degree that it is respected by the person who labors Every successful lawyer or physician in Portland is a laborer and any man who buys his independence with potatoes grown from American soil, has taken his labor to an excellent market and as a citizen is the peer of his professional neighbor Capitalists will fraternize and centralize so long as laborers will Decentralize and try to force them to buy labor they do not want But turn that labor into wheat, wool or pork, and it will find capitalists its friend

Such observations are well calculated to give encouragement to the strangers who may be sojourning with us for their victim of precarious ventures and so running and farming in our neighboring states, California and Nevada, where life is more on the high pressure principle does not at his first view of Oregon see millions in it" He has perhaps, lost the earnings of years and per consequence friends his spirits are at ebb tide, and he is halting between two opinions,—wasting precious time The fortunate donee whose broad acres give him undue importance, is not always the man to apply to for encouragement he must find and locate on government land remote from the larger cities and there make his start The ice once fairly broken, he will soon forget the chafing of his new surroundings, together with his losses and fair weather friends and again look forward He is likely to succeed but if he does not, he has done the next thing to it *tried*. A man in adversity is too apt to look at his case as exceptional, and his efforts unless when he should feel that in seeking an honorable independence he is engaged in a work different only in degree from that done by the Pilgrims in New England Washington at Valley Forge Grant before Petersburg or what John Sherman has done for resumption

With broad mountains and narrow valleys Oregon is not free from drawbacks but neither was its European analogue Switzerland and yet it has been called the cradle of liberty and a country may produce many things of less value than freemen But the wealth of our mountains is undeveloped except in the sublimity of their outlines their hidden treasures have not been searched for and ours is a land yet rich in its possibilities P C REMFLW

The State of Dakota

(From the Chicago Tribune.

It is now pretty certain that the thirty ninth state in the union will be named Dakota and embrace the territory lying just north of Nebraska and west of Minnesota The bill introduced into the senate by Mr Ingalls sent to enable the people of that territory to organize a state government is not at all premature There are already 160 000 people within the limits designed and there will be 1 000 000 before the necessary preliminaries for admission into the union can be completed The area of the state is twice as large as that of Illinois and it far surpasses the last in the fertility of its territories admitted into the union

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The Elder Booth's Memory

Of a Lapse

The elder Booth had a proud boast upon the occasion of his last visit to this city that he had never forgotten a word of a line in the character he was to personate on the night of his appearance and that memory was little short of prodigious Booth wearied after a performance of Jerome in the Apostate read carefully a poem of some eight or ten stanzas the name of which I have forgotten—in the presence of some four or five friends at his house Then handing the book to one of the party he recited verse after verse as it had been before him and [illegible] that night he made his listeners believe he must have been long conversant with it He had never seen the poem before To satisfy them he read another of their own selection with the same result

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THE BLACK DEATH

A METHOD OF THE DISEASE—HOW IT IS ENGENDERED AND DISSEMINATED—ITS ORIGIN AND PROGRESS

[From the Church and Commercial

The disease now ravaging, the district of Astrakhan is the black death which for ages had its home in Egypt Syria, Greece Turkey and the adjoining provinces of Russia to which countries it is now chiefly limited The people in the first infected districts are dying like reports state like flies So rapidly has the disease spread that full 75 per cent of the newly erected hospitals are tenanted No one dares touch the dead and they lie unburied in the streets In the second stage of the disease there is a feeling of weariness and fatigue shivering nausea and sickness confusion of ideas giddiness and pain in the loins These are quickly followed by increased stupor and delirium by pallor and flushing of the face and a feeling of intense heat, or constriction about the heart Darting pains are felt in the groins arms pits and other parts of the body The lymphatic glands become enlarged and carbuncles appear The tongue becomes dry and brown and the gums loosen and ulcerate covered with a dark fur The will loses its control over the muscles About the second and third day livid spots and stripes appear upon the skin In fatal cases—and most are fatal the pulse gradually sinks the surface becomes cold and clammy blood oozes from the mucous surfaces and there is either coma or delirium The victim usually lingers five or six days, and may pass away without a struggle or convulsions It is said that infected persons might pass every country in Europe before the symptoms were recognized and in this way

SPREAD OF THE WHOLE WORLD

The plague may be spontaneously engendered by endemic influences it may originate from local causes and may be propagated by peculiar contagion Temperature seems to exert a very great influence over it In tropical climates it is not known and it does not long withstand the cold of northern climates Its peculiar harvest time in Europe is late in the summer and early in the fall especially in September Like the germs of yellow fever it has thus far evaded the examinations of chemists and microscopists As soon as absorbed it alters the composition of the blood and the condition of the tissues There is no universal cure for it. In occasional instances fresh air may be of benefit Cleanliness is generally a preventive and it is due to this and superior ventilation that foreigners in the Levant are comparatively exempt In Moscow Chinese visitors tell us there were great convulsions in nature and earthquakes and floods which were followed by droughts and famines Hills and lakes disappeared and the gases rising from the earth and decaying vegetation and animals rendered the air excessively impure Following these convulsions came the great plague and before it entered Europe 5 000 000 people in China and 2 000 000 people in Western Asia and Northern Africa had died It appeared in Russia near

WHERE IT NOW PREVAILS

In 1348 Constantinople was attacked, and from there it spread over all Turkey The disease was carried to Italy and from thence to France England Germany and the Low Countries From England it was conveyed to Sweden and passed over the Baltic Sea into Northern Russia In only three years it covered the whole of Europe Half the population of Italy died of it Fifteen contemporary cities lost 300 000 inhabitants London 100,000 and in Europe 25 000 000 people perished The terrible disease was attributed by the superstitious to the Jews, who were accused of poisoning the wells so that the water would spread pestilence Entire colonies of Jews were massacred and thousands were so terrified that they took their own lives. The disease was extensively spread by numerous bands of religious zealots who visited town after town torturing their bodies in the vain hope of expiating the sins of the people These Flagellants as they were called comprised both men and women who went about nearly naked and each one wore a red cross upon the breast The church reaped a rich harvest for many of its frightened subjects gave to it their all Donors were obliged to throw their gifts over the walls, for the monks were afraid to come in contact with them and shut the gates Multitudes sought to escape the disease by living in caves and woods and starved Some endeavored to escape by the sea They died and the sailors who picked up their boats shared the same fate Rotted bodies floated down the rivers polluting them and filling the air with contagion Some of the delirious victims ran through the streets of villages tearing out the hair and scratching the faces of every one they met The plague of 1663 1664 and 1666 the last that prevailed very extensively produced fewer deaths In 1720 Marseilles was almost depopulated and in 1760 Turkey Poland and Russia were again visited From all reports, the present plague promises to destroy as many lives as those of former years

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DIED

At 10 50 A M Feb 16th Jacob Schmidt aged 2 years and 8 months

Funeral from his late residence at 2 o'clock this afternoon Friends of the family are invited

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NEW TO-DAY.

Protection Engine Co No 4 —Special meeting this Tuesday evening at 7 o'clock J C MORELAND President

St Andrew's Society of Oregon —Regular meeting this Tuesday evening at the society's rooms, at 7 30 o clock D W TAYLOR Secretary

A FEW MORE BOARDERS WILL FIND IDEAL Rooms and Good Board at corner of Second and Madison fl1 lm

WANTED

A MAN WITH TEAM ETC TO HAUL LOGS to mill Apply immediately to Fisher & Reed Beaverton Oregon fl0d 1t

NOTICE.

MARIES ESTHER C LARSSON AND HER daughter Caroline on the 10th day of February 1879 left voluntarily my bed and board in Multnomah county Oregon This will notify the public that I will be in no wise responsible for any of the debts or liabilities incurred by the said Esther and said Caroline PETER LARSSON Feb 10 1879 fl1 6t

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SOCIAL ENTERTAINMENT!

The Ladies will give a Social Entertainment

At the Unitarian Chapel

ON WEDNESDAY EVENING

At 8 o clock It will consist of

MUSIC, SINGING, READING, ETC.

To conclude with

SHADOW PANTOMIMES.

Admission 25 cents Children of the Sabbath School half price Refreshments extra fl0dtd

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REPORT

OF THE

COMMITTEE ON INVESTIGATION

Authorized by House Joint Resolution Legislative Assembly of Oregon 1878

I AM PRINTING (AND WILL HAVE READY in about ten days quite a large edition of this Report those ordered by the State being needed for official distribution The Report will be for sale by agents at Portland Oregon City Salem Albany Corvallis Eugene City and possibly at Astoria The Dalles and Harrisburg Linn county Rates per copy and a wholesale given in due time. E M WAITE fl12 2m Steam Printer Salem Oregon

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WOODBERRY & A.T. VERNON

Cotton Sail Duck.

All widths of Cotton Canvas Tents Drills Bunting Twine Woodberry Cotton Salmon Line Cotton Throat Woodberry Cotton Rope

For sale by

T. & P. N. HANNA,

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CORROSIVE SUBLIMATE

Ground Sulphur,
Flour Sulphur,
Carbolic Sheep Dip,
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Wilkelloc's Sheep Bath,
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FOR THE CURE OF SCAB IN SHEEP

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Wholesale Druggists

AMUSEMENTS.

NEW MARKET THEATER.

JOHN MAGUIRE MANAGER
MARCUS R. MAYER ACTING MANAGER

Unqualified Success

Of the Favorite Emotional Actress

MISS ANNIE ADAMS!

And the

CHILD WONDER,

LITTLE MAUD!

THIS (TUESDAY) EVENING FEB 18th,

When will be repeated the greatest hit yet recorded in dramatic annals of this city

The Emery Play of

A Celebrated Case!
A Celebrated Case!

With a Powerful Cast

GRAND

MUSICAL & LITERARY ENTERTAINMENT!

AND

PACKAGE SURPRISE PARTY!

For the Benefit of the

Grand Army Relief Fund

AT GOOD TEMPLARS HALL,

Friday Evening, Feb. 14, '79

THE MOST POPULAR

Amateur Talent of the City,

ENGAGED

TICKETS FIFTY CENTS

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PHILOMATHEAN

Course of Lectures!

At Masonic Hall.

LECTURERS

REV H MAY Feb 14th
Minds of the Talmud

HON J N. DOLPH Feb 28th

REV J A. CRUZAN March 14th

REV T L ELIOT March 28th

JUDGE MATHEW P. DEADY April 11th

On the occasion of each Lecture there will be Musical Selections of her Vocal or Instrumental under the supervision of Mr KINROSS of the Oregon Conservatory of Music.

Tickets for the Course ... $1 25
Single Lecture ... 50

Tickets may be procured of members of the Society at Book and Music Stores and at Plummer's drug store.

The Piano used will be from the celebrated Haines Bros factory and kindly furnished by D W Prentice & Co fl105m

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GRAND MASQUERADE

OF THE

Portland Turn Verein!

AT TURN HALLE,

Monday, February 17, 1879.

PRIZES WILL BE AWARDED

FOR

The Most Elegant Lady and Gent Mask.
The Most Comical Lady and Gent Mask.

PRICE OF ADMISSION

Gents, Masked. ... $1 00
Ladies " ... 1 00
Spectators ... 1 00

Tickets for Masks and Reserved Seats will only be sold at Allen & Ingalls

No extra charge for reserved seats

Doors will be opened at 7 o clock

Grand March of Masks promptly at 8

All Masks must identify themselves to the Committee.

Doubtful characters not admitted

Unmasking at 11½

Only masters will be allowed on the floor until after unmasking

A fine supper will be served in the Hall at 1 o clock. THE COMMITTEE

Dolmans and Suits.

MR. S. KAPUS BIOHL

PRACTICAL CUTTER AND FITTER OF YEARS of experience in Europe and in the principal cities of the U S respectfully informs his numerous customers and the ladies in general that he can be found at the popular

IXL Dress Making Establishment,

191 Third street between Morrison and Alder where with the assistance of experienced Dress Makers he will be able to do first class work and give full satisfaction to all

Ready made suits of the very latest styles

TRENKMANN & WOLFF,

MACHINISTS,

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Tools for Planing, Molding & Turning, Machinery, Patent Models, Dies, Stamps.

Also FARM MACHINERY repaired at short notice. Particular attention paid to BOILER WORK, MILL PICKS MADE AND REPAIRED

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Who took the Pipe?

The Man Who Got the Pipe

Got the Poorest Boonekamp.

CLIFFORD COGGINS,

Successor to

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Manufacturers and Dealers in

DOORS, WINDOWS, Blinds and Glass.

Sash Weights, Cords & Pulleys.

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For the rapid conveyance of Packages and Merchandise

Freighting and Forwarding to and from the Steamers

FURNITURE MOVED

Mark Goods care Holman's Express Portland ROBERT HOLMAN
Office at Holbrook's Auction House Alder st

Matzoth! Matzoth!

The OREGON BAKERY

IS AGAIN PREPARED TO FURNISH THE Public of Portland and Washington Territory With MATZOTH

LIEBE & HOELBING

LIEBE upon the market fl6 1m

DIVIDEND NOTICE

The Home Mutual Insurance Company OF CALIFORNIA

WILL PAY ITS REGULAR MONTHLY DIVIdend of 5 per cent on all outstanding scrip to the 15th inst Scrip holders can call after Feb 15th at the office of the Company Northeast corner of Sansome and Pine streets San Francisco

GM Pond Secretary

For the Stomach, DAMIANA BITTERS, Fleckenstein & Mayer are Sole Agents.

DRY GOODS.

Housekeepers, ATTENTION!

HAVE THIS DAY

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SWEEPING REDUCTION

In all their

HOUSEKEEPING STOCK,

Previous to receiving

New Spring Stock.

Table Napkins,
REDUCED.

Table Cloths,
REDUCED

Towels,
REDUCED.

Counterpanes,
REDUCED.

Lunch Cloths,
REDUCED.

Blankets,
REDUCED.

JOHN CRAN & CO.

GRAND

FOR THE

CHAMPIONSHIP OF THE NORTHWEST!

To be held at the

Palace Billiard Rooms, Portland, Ogn.

COMMENCING FEBRUARY 13, 1879,

Rules Governing said Tournament.

1 The game to be played shall be a French Carom 100 points known as the Three Ball game

In order for a person to be a contestant in said Tournament he shall be a resident of the North west SIX Months prior to the date of said Tournament

3 A referee shall be elected and all or any disputes arising in such game or games shall be referred to him and his decision when rendered shall be final

4 In all games during the Tournament the Crouch shall be barred

5 No player shall be allowed to withdraw from said games until the game is out, by so doing he forfeits the game

6 The referee in said games is hereby authorized to have expelled from the hall at the request of either player any person who shall be guilty of disorderly conduct or who shall by action or utterances endeavor to disconcert or annoy a player

7 There shall be two separate prizes viz The first prize to be the Champion Cue of the North west to be awarded to the winner and the second a purse to be given to the player making the best average

8 The winner of the Champion Cue shall be entitled to hold it for one year but after that time any person eligible to play in this Tournament (viz having resided in the Northwest Six Months prior to the expiration of said year) can have the right to challenge the holder of said Cue accompanied by a wager of $100 to play a match game for the Champion Cue

9 After the winner of said Champion Cue has held it one year any eligible player (see rule 8) has thirty days in which to challenge said winner but should no challenge be made him within said thirty days, the Cue then becomes the property of said holder

10 The winner of said Champion Cue shall be and is hereby required to give bonds in the sum of $500 that he will not dispose or convert to his own use said Cue until he becomes the owner according to rule 9 should the holder of said Cue dispose of it in any way before he becomes the rightful owner the bonds are forfeited

The time for commencing said tournament will be on Saturday evening February 15 1879 at the Palace Billiard Rooms Stark street between Front and First.

The Tournament will be managed and conducted by Mr Elston who has kindly accepted the position.

Entries.

Entries will be open until Monday 10th of February at 7 o clock M

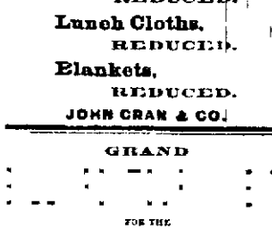
The entrance fee for contestants shall be $10 fl8d1t J ELSTON Manager

---

ALBERT BARTSCH,

Piano Maker and Tuner,

Sole Agent for the World Renowned



Krauich & Bach PIANOS,
Gabler's New Scale Upright PIANOS
Burdett ORGANS
Fine Piano Stools and Cloth Covers.

Tuning and Repairing of Instruments a specialty

Warerooms—Third St near Taylor, Portland Oregon

A Household Blessing!

DR. CRAMPTON'S

WEB-FOOT OIL!

CURES ALL ACHES AND PAINS THAT FLESH is heir to Taken internally or externally Manufactured of Barks and Roots growing in the mountains of Tualatin Oregon

It is the great Pain Conqueror ever made in the Science of Medicine Don't slander the Oil by calling it fail to give the Oil a trial For sale by all druggists

O B McCRAY Proprietor
HODGE DAVIS & Co Wholesale Agents Portland Oregon ja31

"MONEY SAVED IS MONEY MADE."

Save Your Money by going to

OLDS & KING'S

AND BUYING YOUR

[illegible]

AT COST

During the Continuance of their

GREAT CLEARANCE SALE.

147 Third Street, Portland.

AUCTION AND COMMISSION.

CREIGHTON & CO., AUCTIONEERS, And Real Estate Agents.

46 First Street, bet Pine and Ash.

SALE DAYS—WEDNESDAYS AND SATURDAYS

REMOVAL.

WILL HAVE MOVED TO THE FINE SPACIOUS Warerooms No 46 First street (Malarkey's old stand) where we will resume our

GENERAL AUCTION BUSINESS.

Our regular sale days will be as formerly

WEDNESDAYS AND SATURDAYS

Our Real Estate business and semi weekly Horse sales will be continued as usual

Send along your Furniture, &c.

CREIGHTON & CO ,
AUCTIONEERS. fl0d2t

DRY GOODS CLOTHING

GREAT CLEARANCE SALE!

OF

WINTER DRY GOODS!

As we intend to close out our entire Stock of Winter Goods, regardless of cost, we have made a general reduction in all departments:

Black Cashmere ... 65c yd former price 75c
Black Cashmere ... 85c yd former price $1 00
Black Cashmere ... $1 yd former price $1 25
All wool Camel's Hair Cloth 36 in wide former price 65c

BLACK SILKS.

Black Silks reduced from 40 to 50 per cent in price
Camel's Hair Beiges in the new shades ... 25c per yd
Waterproofs all qualities at cost ... 60c to $1 00
All styles Dress Goods at reduced rates.
Heavy Canton Flannel ... 10 yards for $1 00
Fine Cashmere Flannel reduced from ... 60 to 40c
Table Damask all linen ... 37½c per yd
Table Napkins, ... 75c per dozen
Large size Bedspreads ... 50c each
Ladies Felt skirts ... 50c each
Fine French Corsets ... $1 00 worth 3? 00
Thompson's Glove Fitting Corsets 75c a pr 1 75
Button French Kid Gloves 50c a pair worth $1 ..
" $1 00 " ..

A Large Stock of Ladies', Misses and Children's WOOL HOSE, at greatly reduced prices.

A Fine Line of EMBROIDERIES at half price.

Remnants of Cashmeres, Alpacas and other Dress Goods. Flannels, Table Linens, Sheetings, &c., &c., at less than cost.

A Large Stock of

FANCY GOODS

And Gents Furnishing Goods,

AT REDUCED PRICES.

We are not selling auction trash or damaged goods. The public will please remember that we do not advertise goods or prices which on being called for are ALL GONE. This is done so often that it is necessary to call particularly attention to the same as the great majority of people are disgusted with the circulars sent out which mean nothing

"We Mean Business."

We have the goods to show We will sell the goods at the prices advertised. Now is the time to buy

DRY GOODS CHEAP!

Come and see for yourselves and be convinced that this is no humbug All goods warranted as represented—if not satisfactory money refunded

J. F. D. Wrinkle & Co's,

231 First Street corner Salmon

New & Wonderful Discovery!

THOS. CURRY'S

LIQUID PLASTER!

FOR THE CURE OF RHEUMATISM GRAVEL all kindred Complaints Nervousness Weakness Rheumatism Piles Catarrh Headache Kidney Diseases Coughs Colds Consumption Spinal Complaints &c Testimonials of facts

Address THOS CURRY Office 111 First st Portland Oregon

REMOVAL.

JOHN ONETTI THE FASHIONABLE TAILOR HAS removed to the new and spacious store No 51 Third street between Morrison and Yamhill where he will be pleased to see his friends and customers

---

AUCTION AND COMMISSION

S L S GILMAN GEO A YOUNG

GILMAN & YOUNG. Auctioneers and Commission MERCHANTS,

No 42 First Street, bet. Pine and Ash

Auction Sales of Real Estate Furniture General Merchandise Horses Cattle Buggies &c

Regular Sale Days—TUESDAYS and FRIDAYS at 10 o clock A M.

Regular Auction Sale

THIS DAY.

TUESDAY FEBRUARY 18 1879

At 10 o clock A M

For account of whom it may concern

30 nests Tubs
4 casks Hams,
100 bags Beans
300 lbs Soap
1 case Rubber Boots
10 Chairs

ALSO

FURNITURE

Parlor and Bedroom Sets
Spring and Top Mattresses
Marble-top Tables Extension Tables,
Stoves, Crockery Glassware

ALSO

CARPETS:

7 Tapestry Brussels Carpets
2 Body Brussels Carpets,
5 Ingrain Brussels Carpets

Also to close consignment a large assortment of

FINE GLASSWARE

GILMAN & YOUNG Auctioneers

GROCERIES

THE RED FRONT

Has GONE into the hands of

O. F. SITES,

But this means no change in the very low prices asked for GROCERIES at this popular and well known house

White Sugars 8 lbs for ... $1 00
Golden C Sugar 10 lbs for ... 1 00
Best Island Sugar 11 lbs for ... 1 00
Coffee ground Costa Rica CHOICE 5 lbs for ... 1 00
Cooking Raisins 12 lbs for ... 1 00
Table Raisins in 2lb boxes
Tongues and Sounds per kit ... 2 75
No 1 Mackerel per kit ... 50
Tomatoes from either of 3 packers 6 cans for ... 1 00
per doz ... 1 75
Oysters 8 cans for ... 1 00
Corn standard brands 5 cans for ... 1 00
Asparagus 3 cans for ... 1 00
Blueberries Eastern 4 cans for ... 1 00
Fish Chowder Boston 3 cans for ... 1 00
Salmon in 1lb tins 3 cans for ... 1 00
Salmon in 2lb tins 4 cans for ... 1 00
Other Goods in the same rand

We are just in receipt of delicious

Point Reyes Butter,

which we offer at

80 Cents per Roll,

And are receiving by every steamer Choice

Eastern Hams---Royal Brand

And an endless variety of

GROCERIES!

Staple and Fancy

We cater to ALL classes of trade treat every customer with like consideration and WARRANT every thing we sell

We have been compelled by our steadily increasing trade to purchase two new wagons, and our customers can now depend upon prompt delivery of their goods

O. F. SITES & CO.

Successors to

NORTON, SITES & CO.

167 First Street, between Morrison and Yamhill

INSURANCE.

THE STATE

Investment & Insurance

COMPANY.

OF SAN FRANCISCO.

FIRE AND MARINE.

Incorporated in 1871.

Established in Oregon, 1874.

Cash Assets, - - $500,000

OFFICERS.

A J BRYANT ... PRESIDENT
RICH D IVERS ... VICE PRESIDENT
CHAS H CUSHING ... SECRETARY

A. P. HOTALING & CO

15 Front Street, Portland.

Gen'l Agents for Oregon and Washington Territory

Home Mutual Insurance Co.

OF CALIFORNIA.

Capital, Paid up in U S Gold Coin $600,000

Assets, Nov. 1, 1878 ... $618 384 10

LIABILITIES—
Fire Losses— $6 400 00
Unp'd Div'ds 2,827 00 ... 9,227 00

Surplus for Policy Holders, $609,157 19

Losses Paid Since Organization $1,315,874 10

Losses Paid in Oregon $129,789 40

GEO. L. STORY,

Manager Oregon Branch.

Office—First Street, opp Ladd & Tilton's.

UNION

Insurance Company.

FIRE AND MARINE.

Capital, (PAID UP IN GOLD COIN,) - $750,000

Assets, exceed - $1,000,000

BRANCH OFFICE FOR OREGON,

First National Bank Building, Portland.

W. S CALDWELL, Agent.

JAMES H. KOONTZ.

Umatilla, Oregon,

FORWARDING & COMMISSION MERCHANT.

RATES REDUCED.

A large Fire-Proof Warehouse for storage. Also dealer in

DRY GOODS, CLOTHING, GROCERIES Hardware and

GENERAL MERCHANDISE

(Established in 1865)

Mark Goods care J H K U

JAMES H KOONTZ

A Wonderful Discovery!

AUGUST VAHLBUSCH'S

Wart and Corn Plaster.

NATURE BAFFLES TO CURE

STOP BURNING AND CUTTING A NEW PLAster of August Vahlbusch's Wart and Corn Plasters or Oil Both are infallible Each will cure Each is perfectly harmless Each is a CERTAIN CURE Millions of testimonials bear witness to their virtues Beware of worthless imitations Be sure you get the genuine Vahlbusch Plasters No [illegible] Little Rock Ark

WE CAN LOAN YOU MONEY on good security the best of rates and on easy terms

WE CAN RENT YOUR HOUSE take good care of the same and collect the rents

WE CAN SELL YOUR HOUSE or lands Have clients calling for all kinds of city and country property Call and see us

FAWCETT & DUNN
Odd Fellows Temple

AUCTION AND COMMISSION.

OSCAR KILBOURN,

AUCTION AND COMMISSION MERCHANT.

Corner First and Pine Streets.

Regular Sale Days, Wednesdays and Saturdays.

WILL PURCHASE AND SELL REAL ESTATE, Merchandise Furniture etc.

WANTS.

WANTED

FIVE OR SIX ENERGETIC MEN TO HANDLE Fall goods Large salary or commission Reference required Call between the hours of 9 and 10 A M or 2 and 3 P M at 129 Front st fl0d1t

PARTNER WANTED

IN THE MANUFACTURE AND SALE OF PATENT Will Mill Dealer and Discoverer $1 000 to $5 000 required from each Liberal interest will be given for a good working man Address DR JOHNSON WHITE'S HOTEL Aurora Restaurant Portland Oregon fl0d1w

---

TO LET

TO RENT

3 THREE LARGE ROOMS PARTLY FURnished with large closets suitable for light housekeeping for a gentleman or two children Also a rural part of the city Reference required Address A Oregonian office fl0dtf

FOR RENT

A FINE FARM CONTAINING 800 ACRES, 400 of which is in cultivation will be rented for a term of years on easy terms Apply to W S QUIRK Bolton House Block First street between Band C

TO RENT

A NICELY FURNISHED ROOM NEAR THE Post Office Address P O Box 50 fl0d3t

ROOMS TO LET

SEVERAL ELEGANTLY FURNISHED ROOMS with all modern improvements in the central part of the city Address Box 659 P O.

FOR SALE.

FOR SALE ON THE INSTALLMENT PLAN

ALL OF BLOCK 161 COLCH'S ADDITION TO City of Portland between Hand G and Fourteenth and Fifteenth streets either by the quarter block half block or all of block For terms call on ATKINSON & WAKEFIELD Real Estate Agents cor Front and Stark

A STOCK AND FARMING RANCH FOR SALE OR EXCHANGE FOR CITY PROPERTY consisting of 960 acres partly fenced and well adapted for three subdivisions Pine timber located eight miles east of Eugene City and nine miles from the railroad Never failing water springs and contains a house with 8 rooms 2 barns and farming utensils 1 200 grafted apple trees 60 or 70 head of cattle and 12 head of horses The owner will sell the property with or without stock as may be desired by the purchaser Terms one third cash and the balance in three equal annual payments with interest For particulars apply to WOOD & CO Loan and Real Estate agents 1 Follows Temple Portland fl0 2w

FOR SALE A WELL ESTABLISHED PAYING Business at Buena Vista Polk county with Stock and Fixtures at a bargain Apply to BEITMAN & ROSENBLATT Buena Vista Polk county or ROSENBLATT 128 Fourth st Portland fl0d1w

STOP PAYING RENT

I HAVE FOR SALE A HANDSOME DWELLING in first class location on long time five per cent on the Installment Plan monthly payments equal to low rate of interest For particulars apply to GILLETTE Real Estate Agent No 5 Ankeny Block

FOR SALE OR EXCHANGE

FIRST CLASS RESIDENCE NEARLY complete with 11 rooms bath and cellar all modern improvements The lot is 82 by 100 in the preferred portion of the city fronting south and is well worth $10 000 Will sell on reasonable terms or exchange for unimproved city property Inquire of T A WOOD & CO Loan Real Estate Agents Odd Fellows Temple ja31

FOR SALE

A SMALL IMPROVED FARM NEAR THE city, at a bargain Inquire 88 Jefferson st jl0dtf

---

PROFESSIONAL CARDS.

DR. JAS. WITHYCOMBE,

VETERINARY SURGEON

Office at Blackhawk Stables, Portland fe3dtm

W. H. ADAMS,

Attorney at Law,

Room 9 Dekum's Building, up stairs ja1dtm Cor Washington and First

DR. E. A. JONES,

Office—3 and 4 Savings Bank Building 50 First Street, bet. Pine and Ash

PIPER & DONOVAN,

ARCHITECTS,

Office in Odd Fellows Temple Room No 12 First and Alder streets

JULES KNAPP,

ARCHITECT,

Church & Building S E cor First and Morrison

MISCELLANEOUS.

IF YOU WANT TO RAISE MONEY IN quick time on your house and lot in the upper part of the town it is wanted for a residence If price is reasonable answer immediately by addressing B O C Portland Oregon 18dtf

NOTICE.

FROM AND AFTER THIS DATE P

COMMISSION.

LBOURN,

SSION MERCHANT

Pine Streets.

Wednesdays and

days.

D SELL REAL ESTATE

ture etc.

TS.

ED.

TIC MEN TO HANDLE

Inquire at once at Room

een the hours of 2 and 4

required 10d1t

WANTED

S AND SALE OF DR.

$1,000 to $2,500 re-

ne can be made.

n. Address DR. 1010,

ra Restaurant, Portland,

ET.

ENT.

OMS, PARTLY FUR-

osets, suitable for light

saying no children, in a

references required. Ad-

feb1st

ENT.

LING 800 ACRES, 500

ation, will be rented for

terms. Apply to W. J.

ck, First street, between

feb1st

ENT.

D ROOM NEAR THE

P. O. Box 50. 12feb1t

TO LET.

Y FURNISHED ROOMS

provements in the most

Address Box 652, P. O. 116

ALE.

E INSTALLMENT

ES

Fand 6, and Four-

cres, either by the lot,

r all of block. For terms

N & WAKEFIELD, Real

and Stark, feb

ARMING RANCH

NGE FOR CITY PROP-

acres, partly fenced and

divisions. The ranch is

of Eugene City, and five

; is well watered with

use with six rooms, two

ills, 1,200 graded sheep,

cattle, and 10 head of fine

ell the property with the

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h, and the balance on

particulars apply to T. A.

Real Estate Agents, 624

1. feb1d1

, ESTABLISHED AND

ena Vista, Polk county,

a bargain. Inquire at

ATT, Buena Vista, or a

n st., Portland. 12feb1m

NG MEN'T!

ANDSOME DWELLING

a long time, (five years)

monthly payments and

particulars apply to P. W.

Agent, No 7 First street,

ja14dlm

EXCHANGE.

ENCE, NEARLY NEW,

rooms, hot and cold water,

. The location is sightly,

of the city; altogether de-

$10,000. Will sell on easy

ge for unimproved City

. WOOD & CO., Loan and

Fellows Temple ja14dlm

SALE.

D FARM NEAR THE

Inquire 88 Jefferson St.

1d

NAL CARDS.

THYCOMBE,

Y SURGEON,

stables, Portland, Or.

ADAMS,

at Law,

Building, up stairs,

Washington and First sts.

. JONES,

ngs Bank Building,

st. Pine and Ash.

DONOVAN,

ETORS,

Temple, Room No. 12 cor.

lder streets.

KNAPP,

ITECT,

cor. First and Morrison s

LANEOUS.

RAISE MONEY. DO IT

a lot on First street, in the

t is wanted for a residence.

ower immediately by ad-

d, Oregon. 25d3t

TICE.

THIS DATE PARIS B.

onnected with the firm of

retired from the firm. The

e conducted by Eugene D.

, under the firm name of

Ja15d

ON NOTICE.

P HERETOFORE EXIST-

ersigned, under the firm

., has this day been dis-

: Mr. A. L. Mendelson re-

ounts will hereafter be

, who will pay all debts

o collect all debts due the

. A. L. MENDELSON,

D. MENDELSON.

r 3, 1879. fb6d

TICE.

LONGER CONNEC-

Zealand Insurance Co.

C. F. FREBY, Inspector.

Second Notice.

k's Office,

gon, Or., Jan. 30, 1879.

GIVEN THAT THERE

ay the current expenses

Oct. 20, 1878, classed and

261, 266, 269, 270, 272, 273

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1348, 1366, 1368, 1369, 1370

warrants will cease from

DWARD HIRSCH,

State Treasurer.

's Third Notice.

ASURER'S OFFICE,

SALEM, Feb. 5, 1879.

GIVEN THAT THE FOL-

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1132, 1136, 1140, 1141, 1145

1152, 1161, 1165, 1170, 1171

1186, 1188, 1189, 1233, 1234

arrants will cease from

DWARD HIRSCH,

State Treasurer.

STS.

OHNSON,

Central Market.

re in all kinds of

h Meats.

EF AND PORK.

all kinds of Fat Stock.

CHLOTH,

on St., near Third

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y part the city.

ELLER,

and First Streets

ed to supply Fresh

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AND RETAIL.

TRADE.

Lot Lard.

Apply to

FARRELL

REMOVAL.

E. B TO STATE THAT

E BEE HIVE

ak and Pine where a

patronage, M. BEST.

The Daily Oregonian.

TUESDAY MORNING FEB 11 1879

DECISION IN THE U S CIRCUIT COURT DEADY J

U S Circuit Court—District of Oregon

MONDAY February 10 to 9

Ruth A Semple and Eugene Semple vs The Bank of British Columbia—No 410—Action for use and occupation

(1) FORMER ADJUDICATION — The judgment or order of a court is not an estoppel unless the matter decided was within the purview of the proceeding before the court and directly within the issue made and tried therein

(2) ACTION FOR RENTS AND PROFITS—In action for mesne profits the amount expended by the defendant while in the occupation of the premises for necessary repairs and legal taxes ought to be deducted from its gross rents or value thereof and the balance is the damage which the plaintiff has sustained and which he is entitled to recover.

DEADY J

This action is brought to recover the sum of $4 400 for the use and occupation of lots 2 and 3 in Park block No 1 in the city of Portland The complaint alleges that the defendant is a foreign corporation doing business in Portland and that the plaintiffs are husband and wife and citizens of Oregon that the defendant on July 18 1874 entered into the possession of the premises and received the rents and profits of the west half of said lot 3 until May 1 1875 and of the remainder of said premises until the commencement of this action—May 11 1878 that during all said period the plaintiff Ruth A Semple was and now is the owner in fee in her separate right of said premises and that the reasonable value of said rents and profits during the period aforesaid is $66 per month

The answer of the defendant filed January 1 1879 denies the ownership of Luth A Semple admits the possession of the premises by the defendant as alleged denies that they were worth $100 per month but admits that the defendant received rents from the premises during the period aforesaid of the value of $4 297 07 and alleges that it expended thereon during the same period for necessary repairs $1 019 85—paid taxes duly assessed thereon $674 48 and for insurance against loss by fire $300 50—$2 294 83 which being set off against the rent leaves a balance of $2 042 74

The answer also contains a plea of a former adjudication to the effect that on July 8 1876, the circuit court for the county of Multnomah, in "a bill or suit and proceeding in equity" then depending therein between the same parties, duly made a decree whereby the whole matter and thing in litigation here was finally determined, and that the same is at full in full force and effect

The plaintiffs by their reply specially deny the affirmative allegations of the answer including the defense of a former adjudication

The proceeding referred to in the plea of a former adjudication arose in this way

On June 27, 1873, the plaintiff, Eugene Semple, made and delivered his promissory note to the defendant in the sum of $9 500 payable on or before January 1 1874 with interest at 1 per cent. per month and on the same day said Semple and the plaintiff, Ruth A Semple, executed a mortgage of the premises of the defendant as security for the payment of said note, that on March 10, 1874 suit was brought in the circuit court aforesaid to enforce the lien of said mortgage, which resulted, on June 17 1874, in a decree against said Eugene upon said note for the sum of $10 223 with interest as above from said date, and that the premises which were admitted and declared to be the separate property of Ruth A should be sold as upon execution to satisfy the same with the costs and expenses of suit, that upon July 18, 1874, said premises were sold to the defendant in pursuance of said decree which sale was confirmed on August 3 1874, and a conveyance thereof made to the defendant by the sheriff on May 20, 1875 that afterwards on May 1, 1878, the defendant filed a motion in said circuit court, based upon the proceedings in said suit and an affidavit of Mr. W W Francis, its manager, asking the court to set aside the return of the execution issued upon the decree in said suit and all subsequent proceedings thereon had and for leave to issue a new execution upon the said decree," or for such other relief as the court might think proper to grant.

The affidavit of said manager gave the outline of the proceedings in said suit as above and then stated that the defendant "*took possession of said property under said sale and conveyance*" and still retains the same, that in 1877 said Ruth A commenced an action in the circuit court of the United States for this district, against the defendant for the recovery of the possession of the west half of said lot 3, claiming to be the owner thereof in fee, upon the grounds that the sheriff who executed the conveyance thereof to the defendant, not being the sheriff who made the sale, was without authority, and, also, that the defendant being a foreign corporation and not having appointed an attorney in the state to accept service of process against it, as provided by the statute of the state, was not authorized to make said purchase or receive said conveyance and that said circuit court upon the trial of said cause without a jury found said purchase and conveyance to be a nullity that said decision in effect decides that the defendant has no title to any part of said premises whereby the defendant obtained no satisfaction of said decree and that the rental value of said premises is less per month than the interest upon said decree

Notice was given of the motion, and after hearing the matter the court on June 11, 1878, set aside the entry of satisfaction on the lien docket, the return on the execution, and authorized an alias execution to issue to enforce the decree and sell the premises to satisfy the same. The order further provided —and it appearing that the defendant "hath for some time been holding and using the property," it is further ordered that it do bring into court the whole amount of rent money taken by it from said property" to abide the future order of the court, and leave was given to the plaintiffs within 10 days to file affidavits or make further defense to the proceeding. The plaintiffs made no defense —that is filed no allegations or affidavits, but on July 8 1878, the court made an order stating therein that the defendant was in possession of the premises *as mortgagee* of the plaintiffs and should account to them accordingly, that the receipts and expenditures of the defendant in connection with the premises, were as stated above, and applied the balance due from the defendant—$2 042 74—upon said decree, discharging the defendant from all liability to the plaintiffs therefor and directed that execution issue for the balance of the decree—$13 200 06—from which order the plaintiffs appealed and said appeal is now pending in the supreme court of the state

On August 10 1878, the premises were sold on the alias execution to said Francis for the amount of said decree, and on October 18 following said sale was confirmed

The plaintiff, Ruth A, claims title to the premises from the United States under § 4 of the donation act of September 27 1850, as the child of Nancy Lowndale the wife of Daniel H. Lowndale, a settler upon the premises under said section. The patent for the donation issued to said Daniel H and Nancy on June 6 1865—the latter having died in 1854 and the former in 1862, both intestate Under the circumstances the patent inured to the benefit of the parties who were entitled to take the donation upon such a contingency of which the plaintiff Ruth A was one See Fields v Squires 1 Deady 367 Lamb v. Starr Id 452, Lamb v Wakefield 1 Saw, 253, Davenport v Lamb, 13 Wall, 427 Afterwards on August 12 1865 in a suit for partition of the west half of said donation the same being the part thereof designated by the surveyor general as inuring to said Nancy, the circuit court for the county of Multnomah set apart the premises in question in severalty to the said Ruth A See Fields v Squires supra 369 Lamb v Starr supra 450-3

Some question was made upon the admission of the evidence by the defendant as to the title of Ruth A and therefore this statement of the grounds of it But I apprehend the point is not seriously relied on Indeed a sufficient answer to it is found in the fact that the defendant claims under her and therefore is not at liberty to question her title subject to the mortgage and sale thereunder upon the alias execution Green 84 304 307 Gaines v New Orleans 6 Wall 1

Upon this state of facts the plea of a former adjudication has a leg to stand on The proceeding before the circuit court in which it was attempted to apply the moneys received from the defendant to the plaintiff's debt was upon its decree against Eugene Semple neither an action nor a suit but an effort to correct an error in the proceedings to enforce such decree—to set aside the act of the officer upon the execution and the return of satisfaction in the lien docket made in pursuance thereof—because as it turned out the supposed sale of the premises to the defendant was no sale for want of capacity in it to purchase the same or receive the title thereto The power of the court to make the order asked for is not questioned and the subject and the parties were properly before it upon this motion

But all that was done after this appears to have been done by the court—*sua sponte*—without either allegations or proofs upon the part of the defendant except this motion and the statement of the account for the occupation of the property by its manager and none whatever on the part of the plaintiffs It seems to me that the court might as well have attempted to settle or adjust any other account or controversy between these parties upon that motion as this matter of the rent due the plaintiff Ruth A from the defendant for the use of her property

It is a fundamental rule of law that a party is not bound or estopped by the judgment of a court as to a matter point or fact not within the purview of the proceedings before it or directly put in issue therein

In Woodgate's Lilest 44 N Y 13 it is laid down that "a judgment is conclusive upon the parties thereto only in respect to the grounds covered by it and the facts and facts necessary to uphold it and although a decree in express terms purports to affirm a particular fact or rule of law yet if such fact or rule of law was immaterial to the issue and the controversy did not turn upon it, the decree will no conclude the parties in reference thereto In the same effect are The People v Johnson 6 N Y 80 Gilbert v Thompson 9 Cush 270 Mass Manny v Harris John 29 Banks v Moreno 3 Cal 288 Hatton v Hanlow 29 Cal 88 Green v Shilling 2 Iowa 99 Freeman on Judgments

If this suit had been that Eugene Semple the debtor in the decree and he had in reply to the motion for leave to issue an alias execution answered and asked that the rent received by the defendant while a mortgagee in possession subsequent to the rendition of the decree might be applied thereon and that execution issue only for the balance there would have been some show of legality and justice in the proceeding But as it was the plaintiff made no claim or demand in regard to the rent unless it was to assert—*arguendo*—that it did not belong to Eugene Semple and therefore could not be applied upon his debt

The application of the defendant although it stated the irrelevant fact that the rental value of the property during the time it was in its possession was less than the accruing interest on the decree asked for nothing more than leave to issue an alias execution because the proceedings on the first were found nugatory

The plaintiffs made no other answer to the application than to ask to have it stricken from the files, which being denied the prayer of the motion was allowed of course but all that followed in regard to the application of the rent due the plaintiff Ruth A upon the debt of Eugene Semple was done without any procedure to base it upon and rests upon nothing but the will of the court It was not necessary to give the desired relief to the defendant that any action should have been taken in regard to this rent When an execution was allowed to enforce the decree the defendant could ask no more The money received for the rent of the property was already in its possession If the plaintiff, Ruth A, desired to reclaim it or recover the value of the use and possession of the premises she could not be compelled to litigate the matter upon ex-parte affidavits on the defendant's motion for an alias execution, but she had a right to bring an action against the defendant there for when and where she chose and the law permitted in which the questions of what was the value of the use and occupation of the premises and was the defendant a mortgagee in possession *with her consent* and therefore entitled to apply the rents and profits during such possession on its debt, could, upon proper pleadings and proofs be formally tried with a court and jury The proceeding and order in this respect were clearly *coram non judice*

On the other hand the extra-judicial character of this order is only equaled by its *injustice* To fully appreciate this, it is necessary to premise, that in this state the equitable doctrine prevails—that a mortgagee has no interest in the mortgaged property and no right to the possession thereof—that the mortgage is a mere security for the debt and the right of the mortgagor is limited to a sale of the property and the application of the proceeds upon his debt (Anderson v Baxter 4 Or 110, Roberts v Sutherlin, Id. 222 Wetherell v. Wiberg, 4 Saw 234

The plaintiff, Ruth A, never owed the defendant anything nor promised to pay it anything No decree was recovered against her for the debt due the defendant, as stated in the affidavit of the manager, and if there had been, it would have been void She did not join in the note of her husband, but simply mortgaged her property as a security for the payment of the same, and the only right that gave the defendant as against her was the right to have the property sold to satisfy the debt upon he decree of a proper court In the meantime and until that was lawfully accomplished, the property was hers and she had the same right to the occupation and enjoyment of it as if it had never been mortgaged

True, she might, with her husband's consent, agree that the defendant might enter into possession and apply the rents and profits upon the debt for which the property was a security. But the defendant could not enter upon the premises as such mortgagee and take the rents and profits without such consent—and this must appear and be shown by the defendant by some matter independent of and collateral to the mortgage (4 Saw supra 240)

In this case the defendant having attempted to dispose of this property by a judicial sale failed to do so because it attempted to purchase the same when by law it was prohibited from doing business in this state. But the plaintiff, Ruth A was not a party to this unlawful act, and was not affected by it The property remained hers, just as though there had been no attempt to sell Yet the defendant wrongfully assuming that it had become the owner of the premises entered thereon and took the rents and profits as its own In its order the circuit court says that the defendant was in possession of said premises as the "mortgagee" of the plaintiffs If by this it was meant to declare that the defendant was in possession by *virtue* of the mortgage or with the *consent* of such plaintiffs or either of them, then it is a manifest error, because in the affidavit aforesaid of the manager which is the only evidence that appears to have been before the court, it is distinctly asserted that the defendant "*took* possession of said property under said *sale and conveyance* and has retained possession ever since — meaning thereby, said void sale and conveyance of July 18, 1874 and May 20 1875 respectively

Upon this statement of the case, which is the most that can be said for the defendant it did not enter as mortgagee at all It entered without the consent of the mortgagors, but as owner upon the assumption that it had purchased the property but in fact without any right and as a trespasser It became liable then to the true owner, Ruth A Semple for the use and occupation of the premises as any other trespasser would be until the subsequent valid sale upon the alias execution The amount due for such occupation was due her and not her husband It was her separate property and in no way liable for his debts or contracts *She* was under no obligation either legal or moral to pay her husband's debt True she had pledged certain property for that purpose, but this did not include the use and occupation thereof, which belonged to her, until her title was divested by a valid sale in pursuance of the mortgage

It only remains to ascertain what the value of the premises was during the period The defendant admits that it actually received $4 297 50 rent from the property exclusive of commissions to agents But the proof is that the property was worth $100 per month

At this rate from July 18 1874 to May 1 1878 when the defendant ceased to receive the rent on one fourth of the property the rent would amount to $4 000 and from thence to August 8 1878, the date when the property was purchased by the manager the rent at the same rate for the remaining three fourths would amount to $250 Interest upon this sum —$4 800 at ten per cent simple per annum counting from the end of the year in which the rent accrued is $2 00 which added to the principal makes the sum $6 400

From this must be deducted the amount expended during said period by the defendant for legal taxes and necessary repairs [illegible] to be set to be [illegible] from [illegible] [illegible] [illegible]